UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

Hanson Aggregates BMC, Inc., :

Respondent, : Cases 4-CA-33330-1,

4-CA-33508, 4-CA-33547,

and : 4-CA-34290,

4-CA-34362,

International Union of Operating Engineers, : 4-CA-34363, and

Local 542, AFL-CIO, : 4-CA-34378

:

Charging Party. :

RESPONDENT'S RESPONSE TO CHARGING PARTY'S MOTION FOR MODIFICATION OF BOARD ORDER

Respondent, Hanson Aggregates BMC, Inc., hereby responds to the Charging Party's Motion for Modification of Board Order served on Respondent on July 27, 2010.

Respondent respectfully submits that the Charging Party's Motion for Modification should be denied. On November 17, 2009, the United States Court of Appeals entered a Consent Judgment enforcing the Board's Order (Case No. 09-2817). Therefore, it appears that at this time the Board lacks jurisdiction over the Charging Party's Motion. See 29 U.S.C. §§ 10(d)-(e); Section 102.49 of the Board's Rules and Regulations; Haddon House Food Prods., 260 NLRB 1060 (1982).

In any event, the Motion for Modification also should be denied as set forth in the Board's December 22, 2008 Order Denying Reconsideration, which addresses all of the arguments raised in Charging Party's Motion.

Wherefore, Respondent respectfully requests that the Charging Party's Motion for Modification be denied.

Respectfully submitted,

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Attorneys for Respondent, Hanson Aggregates BMC, Inc.

Dated: August 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2010, I caused to be served a true and correct copy of *Respondent's Response to Charging Party's Motion for Modification of Board Order* upon all parties via electronic mail as specified below.

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